

# DECISION



19005  
THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D. C. 20548

FILE: B-202646

DATE: August 4, 1981

MATTER OF: Singleton Contracting Corp.

## DIGEST:

Where bidders were sent letter dated January 12, 1981, notifying them of pre-bid walkthrough and providing a copy of alternative bid item which had been inadvertently omitted from some solicitation packages, and were subsequently sent Addendum No. 1, dated January 16, 1981, bid acknowledging receipt of "Addendum No. 1, January 12, 1981" was properly rejected as nonresponsive.

Singleton Contracting Corp. protests the award of a contract to Chasco Corporation under invitation for bids (IFB) OAS-81-5-JC issued by the Department of Labor. Labor rejected Singleton's bid as nonresponsive for the failure to acknowledge a material amendment. We believe the rejection of the bid was proper.

Labor issued the IFB on January 7, 1981, for the installation of wall and ceiling insulation in a building at the Woodland Job Corps Center. Subsequently, the architect which had architectural design responsibilities for the renovations at the Center issued a letter to all potential bidders. The letter, dated January 12, 1981, was not authorized by the contracting officials at Labor. It informed bidders that a pre-bid walkthrough at the job site was to occur on January 16. It also provided a copy of an alternate bid item which was supposed to have been contained in the IFB, but which had been omitted from some bidders' copies through clerical error.

On January 16, 1981, the architect issued another document to bidders. This document, which was authorized by officials at Labor, materially amended the IFB specifications. The document was entitled "Addendum No. 1"

[Protest of Bid Rejection as Nonresponsive]

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and stated that it was a modification to the "Contract Documents" and was to be incorporated therein.

Bids were opened on January 21, 1981. Labor rejected the low and second low bids for, among other things, failure to submit a bid bond. Singleton was the third low bidder.

Included in the bid form was a provision completed by Singleton as follows:

"The undersigned acknowledges the receipt of the following amendments of the invitation for bids, drawings, and/or specifications, etc. (Give number and date of each):

Addendum No.: 1      Date: 1/12/81"

January 12, 1981, as noted above, is the date of the letter issued by the architect, not the date of Addendum No. 1. The contracting officer determined that Singleton's bid had failed to properly acknowledge Addendum No. 1 and, therefore, rejected it as nonresponsive. The contract was eventually awarded to the fourth low bidder, Chasco Corporation.

Generally, the failure to acknowledge receipt of a material amendment renders the bid nonresponsive. Porter Construction Company, 55 Comp. Gen. 615 (1976), 76-1 CPD 2. The basis for this rule is that acceptance of a bid which disregards a material provision of an invitation, as amended, would be prejudicial to other bidders; clarification of the bid after bid opening would permit the bidder to become eligible for award by furnishing extraneous evidence that the amendment had been considered, or to avoid award by remaining silent. Fil-Coil Company, Inc., B-197604, March 25, 1980, 80-1 CPD 221.

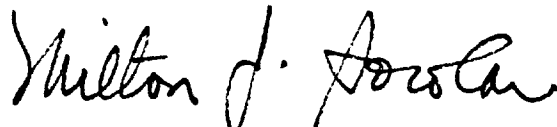
Singleton contends that it did in fact acknowledge receipt of Addendum No. 1: since Addendum No. 1 was the only addendum issued, the entry of the numeral "1" beside "Addendum" was sufficient acknowledgement and the insertion of the incorrect

date is insufficient to vitiate its otherwise correct acknowledgement. At the very least, argues Singleton, it acknowledged receipt of both the addendum and the January 12 letter. Therefore, contends Singleton, the incorrect date should be waived as a minor informality.

We believe, however, that the entries made by Singleton in the amendment acknowledgement provision of its bid are insufficient to constitute an acknowledgement of Addendum No. 1. Although the architect's January 12 letter did not represent itself to be an amendment, we believe that the writing reasonably could be interpreted as an addendum to the IFB. Additionally, to our knowledge, the letter was the first communication sent to bidders to refer to the IFB. Thus, we believe it is plausible that a bidder who received the January 12 correspondence, and nothing more, could have made the precise addendum acknowledgement entries as did Singleton. We therefore believe that Singleton's bid could be interpreted as acknowledging either the January 12 letter or the January 16 addendum.

Where a bid is subject to two interpretations, under one of which it is responsive, and the other nonresponsive, the bid must be rejected as ambiguous. United McGill Corporation and Lieb-Jackson, Inc., B-190418, February 10, 1978, 78-1 CPD 119. We believe that by entering the date of the letter, Singleton has cast doubt on its intentions with respect to the amendment; award to Singleton would have afforded Singleton an opportunity to become eligible for award by showing it received the amendment, or to avoid award by asserting that it did not receive Addendum No. 1, but had merely acknowledged receipt of the January 12 correspondence. Thus, we conclude that Labor properly rejected Singleton's bid as nonresponsive.

The protest is denied.



Acting Comptroller General  
of the United States